



Sangguniang Panlalawigan

BATAAN CAPITOL, BALANGA CITY



EXCERPT FROM THE MINUTES OF THE 54TH REGULAR SESSION OF THE SANGGUNIANG PANLALAWIGAN OF BATAAN ON AUGUST 14, 2023 HELD AT THE SANGGUNIANG BAYAN SESSION HALL, SAMAL, BATAAN

PRESENT:

Hon. Ma. Cristina M. Garcia, Vice Governor and Presiding Officer

FIRST DISTRICT:

Hon. Antonino B. Roman III, J.D., LL.M., Board Member

Hon. Jomar L. Gaza J.D., Board Member

SECOND DISTRICT:

Hon. Maria Margarita R. Roque, Board Member

Hon. Manuel N. Beltran, Board Member

Hon. Noel Joseph L. Valdecañas, Board Member

THIRD DISTRICT:

Hon. Romano L. Del Rosario, Board Member

Hon. Jorge S. Estanislao, M.D., Board Member

Hon. Angelito M. Sunga, Board Member

Hon. Roman Harold R. Espeleta, Board Member

Hon. Jovy Z. Banzon, Board Member (PCL President)

Hon. Doroteo M. Austria, Board Member (FABC President)

Hon. Precious D. Manuel, Board Member (SKF President)

Hon. Feliciano G. Magay, Jr., Board Member (IPMR)

ABSENT:

Hon. Benjamin C. Serrano, Jr., Board Member (On Leave)

PROVINCIAL ORDINANCE NO. 15 SERIES OF 2023

AN ORDINANCE PROMOTING A DRUG-FREE WORKPLACE IN THE PROVINCE OF BATAAN.

AUTHORED AND SPONSORED BY:

HON. ROMANO L. DEL ROSARIO

HON. JORGE S. ESTANISLAO, M.D.

WHEREAS, Article III, Section 36 (d) of Republic Act 9165, otherwise known as "Comprehensive Dangerous Drugs Act of 2002", provides that officers and employees of public and private offices, whether domestic or overseas, shall be subjected to undergo a random drug test as contained in the company's work rules and regulations, which shall be borne by the employer, for purposes of reducing the risk in the workplace;

WHEREAS, Memorandum Circular No. 13, Series of 2017 issued by the Civil Service Commission provides for the guidelines in the Mandatory Random Drug Test for Public Officials and Employees and for Other Purposes to ensure that government agencies remain drug-free by subjecting public officials and

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employees to a random mandatory drug test, as a condition for continuous employment and, to this end, the government and the public will be ensured of effective and efficient service free from the hazards of drug use in the work place;

WHEREAS, Section 4 of Executive Order No. 66, Series of 2018 provides that all local government units shall adopt their respective Drug-Free Workplace Programs and conduct authorized drug testing among their respective officials and personnel in accordance with the provisions of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002, as amended;

WHEREAS, Regulation No. 13, Series of 2018 issued by the Dangerous Drugs Board mandates the creation of drug-free workplace policies in all government offices, especially local government units, including the conduct of authorized drug testing, to ensure that all public officers remain drug free and that the general public be assured of effective and efficient service from the government;

WHEREAS, Department Order No. 53-03, Series of 2003 issued by the Department of Labor and Employment provides for the guidelines for the implementation of a drug-free workplace policies and programs.

NOW THEREFORE, BE IT ENACTED BY THE SANGGUNIANG PANLALAWIGAN OF BATAAN IN REGULAR SESSION ASSEMBLED:

ARTICLE I GENERAL PROVISIONS

Section 1. Short Title. This Ordinance shall be known as the "Drug-Free Workplace Ordinance in the Province of Bataan".

Section 2. Objective. This Ordinance aims to ensure that officials and employees of the Provincial Government of Bataan (PGB), its 12 municipal/city governments, national government agencies, government-owned and controlled corporations, state universities and colleges within the territorial jurisdiction of the Province of Bataan remain drug-free in order to continuously provide effective and efficient services to the people.

Section 3. Scope. This Ordinance covers all officials and employees of the PGB including contract of service, job order support services and job order workers, local government units, national government offices, government-owned and controlled corporations, state universities and colleges within the territorial jurisdiction of the Province of Bataan.

Section 4. Definition of Terms. For the purpose of this Ordinance, the following terms are defined as follows:

- a. **Authorized Drug Testing** – the testing done by any government forensic laboratory or a drug testing laboratory accredited by the Department of Health. It shall employ, among others, two (2) testing methods, the screening test, which will determine the positive test result as well as the type of drug used, and the confirmatory test, which shall confirm a positive screening test.
- b. **Challenge Test** – a drug test conducted as a result of a challenge filed by a public official or employee who tested positive for drug use in a confirmatory test in an authorized drug testing activity.

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- c. Confirmatory Test** – an analytical test using a device, tool or equipment with a different chemical or physical principle that is more specific which will validate and confirm the result of the screening test.
- d. Contract of Service (COS)** – refers to the engagement of the services of an individual, private firm, other government agency, non-governmental agency or international organization as consultant, learning service provider or technical expert to undertake special project or job within a specific period.
- e. Dangerous Drugs** – include those listed in the Schedules annexed to the 1961 Single Convention on Narcotic Drugs, as amended by the 1972 Protocol, and in the Schedules annexed to the 1971 Single Convention on Psychotropic Substances as enumerated in the attached annex which is an integral part of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002, as amended.
- f. Drug Dependency Examination** – refers to the examination conducted by a physician accredited by the DOH to evaluate the extent of drug use of a person and to determine whether he/she is a drug dependent or not, which includes history taking, intake interview, determination of criteria for drug dependency, mental and physical status, and the detection of dangerous drugs in body specimens through laboratory procedures.
- g. Employee Assistance Program** – a program that offers assistance to government officials or employees who have alcohol or drug-related issues and problems that may affect work performance. It shall be jointly implemented by the agency, the employees, and employees' union.
- h. Intervention** – refers to treatment, such as guidance counseling, regular monthly drug testing, rehabilitation, etc.
- i. Job Order (JO)** – refers to piece work or intermittent or emergency jobs such as janitorial and ground maintenance, clearing of debris on roads, canals, waterways after natural/man-made disasters/occurrences other manual/trades and crafts services including but not limited to carpentry, plumbing, electrical and the like. These jobs are of short duration and for specific piece of work.
- j. Job Order Support Services (JOSS)** – shall include IT support, data management, data encoding, project support, and other services that support the day-to-day operations of the Agency, such as but not limited to security, driving, and equipment maintenance.
- k. Mandatory Drug Testing** – compulsory submission of incumbent public officials or employees or prospective employee to drug testing as mandated by this Ordinance.
- l. Public Officials and Employees** – refer to any person holding or performing a public function, either elected or appointed, in the legislative, executive or administrative office in the local government units and national government, including officials and employees of national government agencies, government-owned and controlled corporations and state colleges and universities.
- m. Random Drug Testing** – drug testing where the selection process results in equal probability that any employee from a group of employees will be tested, and without any prior notice of the date and venue.

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n. **Screening Test** – a rapid drug test performed to establish potential or presumptive positive result. It refers to the immunoassay test to eliminate a “negative” specimen, i.e., one without the presence of dangerous drugs, from further consideration and to identify the presumptively positive specimen that requires confirmatory test.

ARTICLE II
DRUG - FREE WORKPLACE IN THE PROVINCIAL GOVERNMENT OF
BATAAN

Section 5. Creation and Composition of the Drug-Free Workplace Committee. There shall be a Drug-Free Workplace Committee to be created by the Governor.

The Committee shall be composed of the following:

Chairperson: Governor

Co-chairperson: Provincial Administrator

Members:

- a. SP Chairperson, Committee on Peace and Order
- b. Human Resource Management and Development Officer
- c. Provincial Health Officer
- d. President of the Association of Bataan Provincial Government Employees
- e. Provincial Anti-Drug Abuse Council Focal Person (PADAC)
- f. Leader of the Assessment Team
- g. Provincial Legal Officer

Section 6. Functions. The Drug-Free Workplace Committee shall have the following functions, to wit:

- a. Cause the dissemination of this Ordinance to all employees of the PGB;
- b. Ensure allocation of budget necessary for the effective implementation of this Ordinance;
- c. Implement, monitor, control and evaluate the enforcement of this Ordinance;
- d. Propose to the Sangguniang Panlalawigan any amendment for the sustainable and effective implementation of this Ordinance;
- e. Perform such other functions deemed necessary for the effective implementation of this Ordinance.

Section 7. Establishment of an Assessment Team. There shall be an Assessment Team to be created by the Governor. The assessment team shall be composed of the personnel with educational and training background on medicine, psychology, social work, and human resources administration. The leader of the assessment team shall automatically become a member of the Drug-Free Workplace Committee. This team shall assist in the conduct of substance abuse awareness and prevention programs, implement the Employee Assistance Program for public officials or employees who wish to undergo drug use intervention, and perform other functions to be delegated by the Drug-Free Workplace Committee.

Section 8. Aspects of the Drug-Free Workplace Policy

- a. **Pre-Employment Drug Testing** – Mandatory drug testing shall remain an essential requirement for initial entry into government service. Any applicant found positive for drug use shall be denied entry to government service.

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- b. **Substance Abuse Awareness and Prevention Program** - The Assessment Team shall initiate and implement this program to ensure that personnel are properly informed on the evils of drug use, including its physical, mental, social, and legal implications.
- c. **Authorized Drug Testing** - The Assessment Team shall implement a random selection procedure in order to determine public official or employee who shall undergo drug testing.
- d. **Employee Assistance Program** - Any public official or employee, prior to the conduct of Authorized Drug Testing, may seek intervention through the Employee Assistance Program, which shall provide referrals and additional services to the personnel concerned. A drug dependency examination shall be conducted in order to determine the extent of drug use, among others, and the applicable intervention. However, public officials and employees who are found positive of dangerous drugs at the first instance after the challenge test, or after positive drug result from a confirmatory test should the concerned public official or employee fail to challenge said result, shall also undergo drug dependency examination and be subjected to appropriate intervention.

Section 9. Guidelines in the Conduct of Authorized Drug Testing

- a. The Governor, upon recommendation of the Drug-Free Workplace Committee, shall determine the frequency and dates for the conduct of an authorized drug testing activity. Information relating to frequency and dates of drug testing shall be treated with utmost confidentiality.
- b. Public Official or Employee selected to undergo drug testing shall immediately report to the Assessment Team. Public Official or employee who, without any justifiable reason, fails to report for drug testing shall be sanctioned.
- c. Upon discovery that a urine sample tested positive for use of dangerous drugs after confirmatory testing, the result shall immediately be made known to the Governor or his duly authorized representative, who shall notify the public official or employee concerned. The public official or employee shall have fifteen (15) days from receipt of notice to challenge the result of the confirmatory test. Using the same specimen, a challenge test shall be conducted by a drug testing laboratory accredited by the DOH. All expenses incurred in the conduct of the challenge test shall be borne by the concerned public official or employee.
- d. A positive drug test result from the challenge test is deemed final. Failure to file a challenge within the prescribed period shall make the positive drug test result from the confirmatory drug test final. In both preceding instances, the public official or employee shall be subjected to drug dependency examination and applicable intervention.

Section 10. Frequency of the Conduct of Drug Testing. Subsequent random drug testing shall be periodically conducted in an interval of two (2) years.

Section 11. Confidentiality of Records. Any person who, having official custody of or access to all data and information relative to the conduct of the authorized drug testing, or anyone who, having gained possession of such data and information, reveals their content to any person not authorized to have access

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thereto, shall be sanctioned accordingly hereof without prejudice to the filing of criminal charges under R.A. 9165 and other relevant laws.

ARTICLE III
PUNISHABLE ACTS AND PENALTIES

Section 12. Punishable Acts.

- a. Any public official or employee who refuses, without any valid reason, to submit himself/herself to authorized drug testing.
- b. Any public official or employee who, after being tested positive of drug use, shall refuse to undergo treatment or rehabilitation, or fails to complete his/her treatment or rehabilitation program.
- c. Any public official or employee who for the second time has been tested positive in a random drug test after completion of his/her treatment and/or rehabilitation program or shall be found to have used dangerous drugs during the prescribed period of intervention or rehabilitation.
- d. Any public official or employee found to have tampered the result of a drug test, interfered with the conduct of the drug test or in the release of drug test results.
- e. Any public official or employee who violated the confidentiality of records.

Section 13. Penalties for Public Officials and Employees.

- a. Any public official or employee, except elective official, who committed Section 12(a) hereof shall be charged with the appropriate administrative offense.
- b. Any public official or employee, except elective officials, officers and members of the military, police and other law enforcement agencies, who committed any of the punishable acts as provided in Section 12(b) and (c) hereof shall be charged with the appropriate administrative offense.
- c. Any public official or employee, except elective official, who committed a punishable act as provided in Section 12(d) hereof shall be charged with the appropriate administrative offense without prejudice to the filing of criminal charge/s under R.A. 9165.
- d. Any public official or employee, except elective official, who committed a punishable act as provided in Section 12(e) hereof shall be charged with the appropriate administrative offense without prejudice to the filing of criminal charge/s under R.A. 9165.
- e. Any elective official who committed any of the punishable acts as provided in Section 12 hereof shall be charged administratively as provided in Section 60 of R.A. 7160.

Section 14. Funding. Funding for the random drug testing shall be taken from the Annual Budget of the Provincial Government of Bataan and or the annual budget of the Provincial Anti-Drug Abuse Council (PADAC) shall be appropriated for the implementation of this ordinance.

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ARTICLE IV
MISCELLANEOUS AND FINAL PROVISIONS

Section 15. Separability Clause – If for any reason or reasons, any part or provisions of this Ordinance shall be held to be unconstitutional or invalid, other parts or provisions hereof which are not affected thereby, shall continue to be in full force and effect.

Section 16. Repealing Clause – Ordinances, resolutions, executive orders, and or issuances which are inconsistent with any provision of this Ordinance are hereby repealed or modified accordingly.

Section 17. Effectivity Clause – A copy of this Ordinance shall be posted in three (3) conspicuous places within The Bunker, Bataan Provincial Capitol for three (3) consecutive weeks, and published in a newspaper of general circulation. This Ordinance shall take effect on the day following its publication, or at the end of the period of posting, whichever occurs later.

UNANIMOUSLY ENACTED this 14th day of August 2023.

I HEREBY CERTIFY to the enactment of the foregoing Ordinance.


ATTY. MARK LORENZ C. QUEZON
Secretary to the Sangguniang Panlalawigan


ANTONINO B. ROMAN III, J.D., LL.M.
Board Member


MARIA MARGARITA R. ROQUE
Board Member


JOMAR L. GAZA J.D.
Board Member


MANUEL N. BELTRAN
Board Member


ROMANO L. DEL ROSARIO
Board Member


NOEL JOSEPH L. VALDECAÑAS
Board Member


JORGE S. ESTANISLAO, M.D.
Board Member

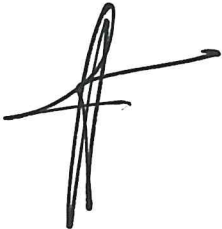

ANGELITO M. SUNGA
Board Member


JOVY Z. BANZON
Board Member
(PCL President)


ROMAN HAROLD R. ESPELETA
Board Member




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DOROTEO M. AUSTRIA
Board Member
(FABC President)



PRECIOUS D. MANUEL
Board Member
(SKF President)


FELICIANO G. MAGAY, JR.
Board Member
(IPMR)

ATTESTED:


MA. CRISTINA M. GARCIA
Vice Governor & Presiding Officer

APPROVED:


JOSE ENRIQUE S. GARCIA III
Provincial Governor
Date: 8-24-2023 